



# FOCUS ON THE FISC

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John D. Carpenter, Legislative Fiscal Officer  
Evan Brasseaux, Staff Director

### Economic Section

Greg Albrecht, Chief Economist  
Deborah Vivien, Economist/ Fiscal Analyst

### Education Section

Jodi Mauroner, Section Director  
Stephanie Blanchard, Fiscal Analyst  
Charley Rome, Fiscal Analyst

### Health & Hospitals Section

Shawn Hotstream, Section Director  
Alan Boxberger, Fiscal Analyst  
Patrice Thomas, Fiscal Analyst

### General Government Section

J. Travis McIlwain, Section Director  
Drew Danna, Fiscal Analyst  
Matthew LaBruyere, Fiscal Analyst  
Zachary Rau, Fiscal Analyst

### Information Services Section

Willie Marie Scott, Section Director

### Support Staff

Debbie Roussel, Jean Pedersen, Rachael Feigley

### LEGISLATIVE FISCAL OFFICE

900 North 3<sup>rd</sup> Street (P.O. Box 44097)  
State Capitol Building, 18<sup>th</sup> Floor  
Baton Rouge, LA 70804

Phone: (225) 342-7233, Fax: (225) 342-7243  
Website: lfo.louisiana.gov

## FROM THE DESK OF THE FISCAL OFFICER

Your Legislative Fiscal Office is pleased to present the latest edition of Focus on the Fisc. We hope you enjoy it and encourage feedback. This issue provides information comparing OGB's health plan "richness" to other state health insurance plans. It also discusses Double-Counted Financing in the FY 14 and FY 15 budgets as well as various articles including information on TOPS, Act 419 and the 21st Executive Department.

Due to the discussion at the last JLCB meeting (August 14, 2014), we are actively researching OMV wait times and will provide an update to the legislature in the September edition of Focus on the Fisc.

## FOCUS POINTS

### OGB's Health Plan "Richness"

J. Travis McIlwain, Gen. Govt. Section Director, [mcilwait@legis.la.gov](mailto:mcilwait@legis.la.gov)

The LFO presented its second monthly OGB update to the Joint Legislative Committee on the Budget (JLCB) at the August 2014 meeting. Members of the committee suggested the LFO research comparisons of Louisiana's state employee health plan to other various state health plans across the country. The PEW Charitable Trusts and the MacArthur Foundation recently released a state comparison study titled *State Employee Health Plan Spending: An examination of premiums, cost drivers and policy approaches*. Included within the report is benchmark data on premiums, premium contribution arrangements and cost-sharing arrangements. Due to OGB's testimony that the OGB Health Plans are some of the richest health plans in the country, this article will solely focus on the results of this study relative to a state's health plan richness. **Note:** Due to the number of state health insurance topics discussed in the PEW Charitable Trusts Report and in other reports found through the National Conference of State Legislatures (NCSL), future editions of Focus on the Fisc will include other state comparisons. These issues will include premium contribution arrangements as well as national trends associated with states' trending to lower premium and higher deductible plan option.

This report can be found at:

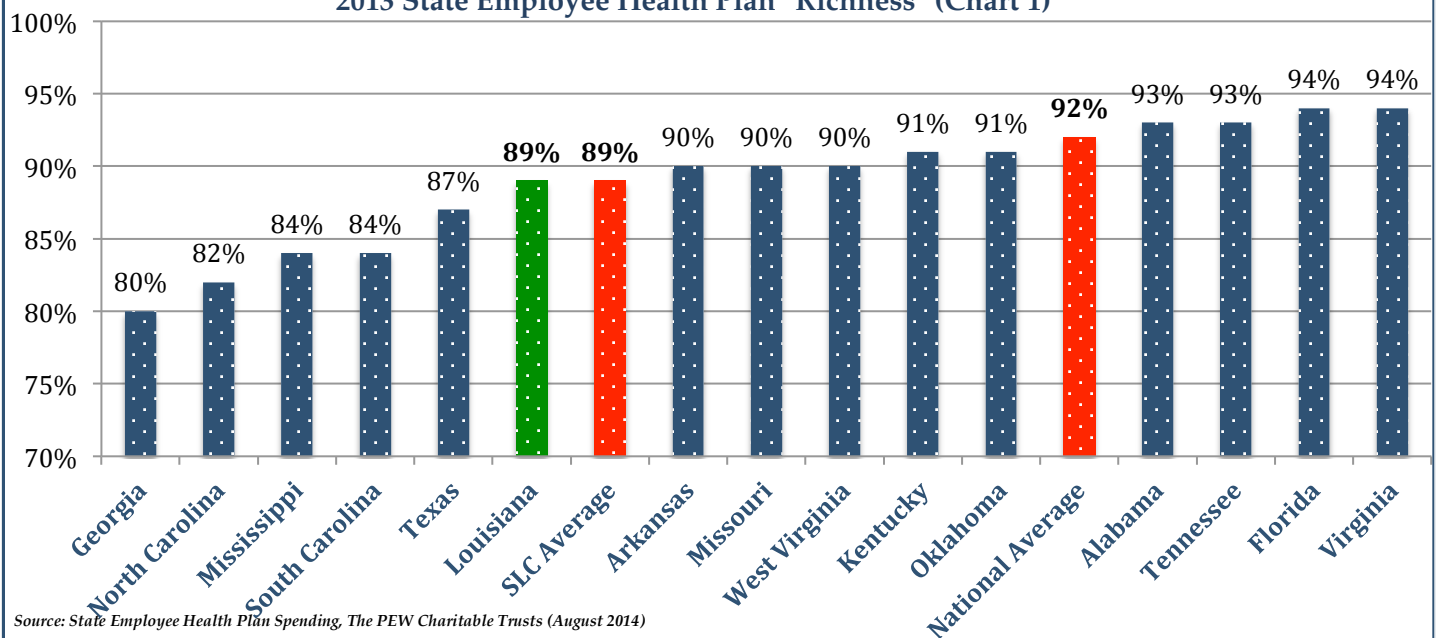
<http://www.pewtrusts.org/~media/Assets/2014/08/StateEmployeeHealthCareReportAugust2014pdf.pdf>

According to the study, a state health plan's richness is the relative cost sharing between an employer (the plan) and employees based on the required deductibles, copayments and coinsurance. The lower the percentage of costs paid by enrollees, the greater the health plan richness. According to the report, in 2013 the national average of state health plan richness (actuarial value) is 92%, meaning the state health plan pays 92% of allowed costs of the covered services for an average enrollee while the enrollee pays 8% (through deductibles, coinsurance & out-of-pocket maximums) in addition to any premiums paid. See Chart 1 on the next page that compares Louisiana's health plan richness to the rest of the southern states contained within the Southern Legislative Conference (SLC). Of 15 states in the SLC, Louisiana ranks 10 out of 15 at 89%, which is 3 percentage points below the national average (92%) and is 9 percentage points below Virginia and Florida (94%) and above a handful of SLC states that range from 80% (Georgia) to 87%

(Texas). See Chart 1 below for a complete comparison. *Note: For this report, Milliman Inc., a global actuarial firm, calculated the actuarial values included in this report. Milliman, Inc. maintains a database built through a collection of publicly available health insurance data from state governments. According to the report, PEW partnered with Milliman to access the data for the actuarial analysis included in this report.*

Once the new proposed OGB health plans go into effect on January 1, 2015, Louisiana's 89% plan richness (also known as the actuarial value) will likely decrease due to a significant increase in the deductibles and out-of-pocket maximums that are associated with the proposed health plan options. See Chart 2 below that compares the out-of-pocket maximums for active and family for the current health plans to the proposed health plans. As is included in the LFO's August OGB update document, the out-of-pocket maximum is the maximum amount of money an OGB member pays out-of-pocket for medical services in a health plan year. The out-of-pocket maximum typically varies for in-network and out-of-network providers. *Note: The state will annually fund \$1,000 (actives) and \$2,000 (family) for participants who pick the HRA 1000 Plan. In addition, the state will also annually fund \$200, plus up to a \$575 dollar-for-dollar match of employee contributions for those members who pick the HSA 775 plan. These state contributions can be used to offset the out-of-pocket maximums shown in Chart 2 below.*

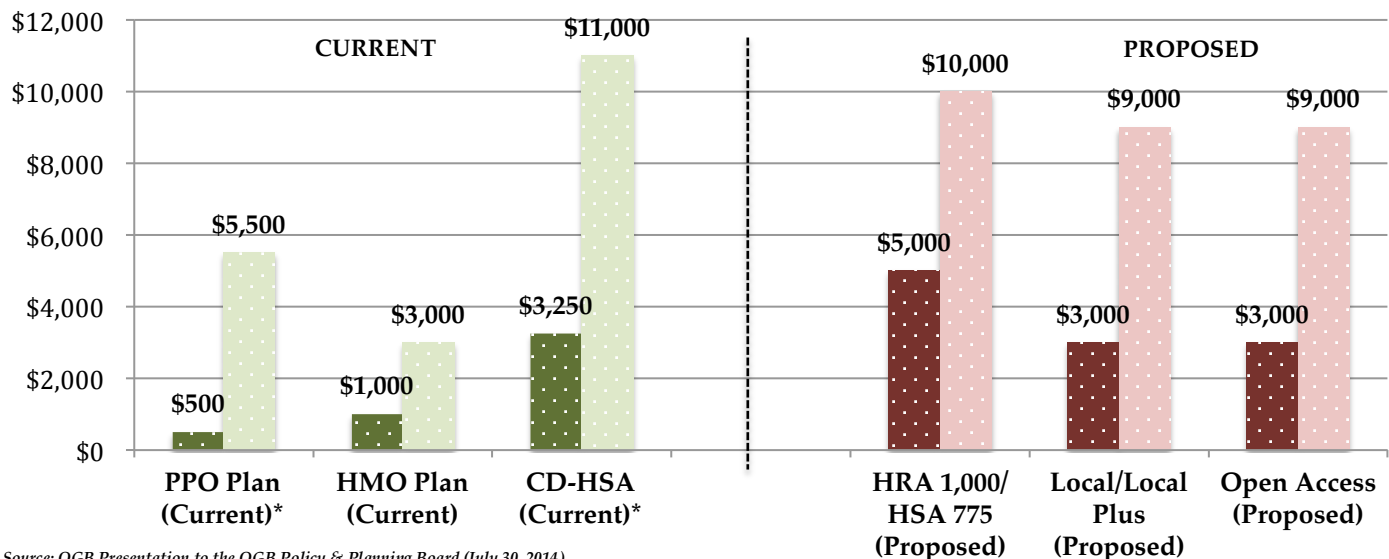
2013 State Employee Health Plan "Richness" (Chart 1)



\*Family of 4 is utilized in this illustration.

In-Network OUT-OF-POCKET MAXIMUM Comparison (Chart 2)

(Darker color is active single, while lighter color is active family)



## GENERAL GOVERNMENT

**Double-Counted Financing in FY 14 and FY 15 Budgets**

Deborah Vivien, Economist/Fiscal Analyst, [viviend@legis.la.gov](mailto:viviend@legis.la.gov)

Greg Albrecht, Chief Economist, [albrechtg@legis.la.gov](mailto:albrechtg@legis.la.gov)

Approximately \$108 M in revenue associated with fraud collections and the Revenue Estimating Conference (REC) revenue concept SGR Overcollections\* are included in the REC forecasts of SGF in FY 14 and FY 15 and have effectively also been dedicated to the Overcollections Fund through each year's Funds bills. This has resulted in these revenues being appropriated in both years' budgets as SGF direct financing and as statutory dedication financing simultaneously. This double-counting of revenues results in a negative contribution to each year's budget balance.

*Fraud Collections (\$39.2 M in FY 14 and \$32 M in FY 15)*

One of the funding sources for both the FY 14 and FY15 budgets has been revenue identified by the Department of Revenue (LDR) as fraud collections. According to LDR, fraud collections result from the denial of refunds that have been claimed but are determined to be unwarranted, whether by a third party vendor or units within the agency; comprised primarily of personal & corporate income tax, sales tax, and severance tax. Thus, existing tax receipts are retained and not refunded. These revenues are part of the baseline of anticipated receipts and, if not otherwise dedicated, flow to the SGF to support direct general fund appropriations. These receipts have been appropriated as part of the overall SGF direct means of financing as well as statutory dedication financing through the Overcollections Fund, and appear to have been double-counted in the FY 14 and FY 15 budgets.

Fraud collections appropriated in the FY 14 budget from the Overcollections Fund were originally contemplated at \$20 M, but a total of \$39.2 M had been utilized by fiscal year end. As indicated by LDR, in January and February the treasurer transferred a total of \$20.1 M from the SGF into the Overcollections Fund. Then an additional \$19.1 M was transferred in the 13th accounting period for the fiscal year. These funds were accounted for as part of total tax receipts, supporting FY 14 SGF appropriations, but had not been subtracted from total general fund receipts reflecting their transfer to the Overcollections Fund, simultaneously supporting FY 14 statutory dedication appropriations.

Similarly, at the outset of the current fiscal year, the FY 15 budget contains \$32 M of Fraud collections that are included in the state general fund direct forecast, which is fully appropriated, as well as in the Overcollections Fund appropriation. As with FY 14, amounts transferred to the Overcollections Fund in FY 15 will be reductions to the general fund and could be higher than the \$32 M currently contemplated.

*Debt Recovery (\$10 M in FY 15)*

The 2014 Funds Bill (Act 646 of 2014) transfers collections from the Office of Debt Recovery (ODR) deemed non-recurring by REC into the Overcollections Fund. Currently, the budget anticipates \$10 M in debt recovery funds through the Overcollections Fund. Under current practices, most state tax debt collections are more than 60 days delinquent. ODR will handle all final debt over 60 days delinquent. These anticipated dollars are similar to the fraud collections in that they are appropriated as both SGF and as Overcollections Fund statutory dedications simultaneously. In addition, while probably not intended, it may be possible to interpret the ODR language of the Funds Bill as requiring all funds collected through ODR to be deposited into the Overcollections Fund. Under this scenario, substantial amounts of baseline tax collections would be diverted from the SGF, possibly of a substantial magnitude. The first \$5 M in SGF debt recovered by ODR is directed to the Department of Public Safety for state police training, but alternative financing has been provided for this training in FY 14 or FY 15.

*SGR Overcollections (\$27 M in FY 14)*

The REC forecast includes self-generated revenues (SGR) collections in excess of the appropriated amounts in the Office of Financial Institutions (OFI) and the Department of Insurance (DOI). In the absence of an explicit dedication of these funds, they are included in the SGF forecast. In FY 14, these excess collections were \$27 M and were appropriated as SGF direct means of financing.

Language in the FY 14 Funds bill (Act 420 of 2013) directs the treasury to transfer to the Overcollections Fund all "excess collections from Interagency Transfers and Fees and Self-Generated Revenues of at least



Ten Million Dollars” where they are to be used to support appropriations from the Overcollections Fund. This language encompasses this REC revenue concept of excess collections, resulting in their being double-counted as both direct general fund and statutory dedication financing.

*\* SGR Overcollections are not the same as the Overcollections Fund. SGR Overcollections is an REC revenue concept that includes collections in excess of appropriation for the Office of Financial Institutions and the Department of Insurance. The Overcollections Fund is the fund in which various receipts are deposited, typically a wide range of ad hoc resources.*

### **Bayou Corne Sinkhole**

Matthew LaBruyere, Fiscal Analyst, [labruyerem@legis.la.gov](mailto:labruyerem@legis.la.gov)

As of 7/30/2014, the state has incurred approximately \$13.8 M in expenditures associated with its response to the Bayou Corne sinkhole incident since August 2012. Approximately \$9.2 M or 67% of the expenditures provided are associated with a contract the Department of Natural Resources has with the Chicago Bridge and Iron Company (CBI), formerly the Shaw Group, (including its subcontractors). CBI is responsible for planning, testing and drilling activities to determine the cause of the sinkhole. The second major expenditure category includes costs for salaries and related benefits. Approximately \$1.7 M or 15% of the total expenditures provides for salaries and related benefits for state employees (primarily scientists and enforcement personnel within various state departments). Other expenditure categories along with the cost incurred include the following: \$125,504 for professional services contracts with other contractors responsible for drilling wells and performing testing activities; \$213,791 for operating services, travel and supplies; and \$452,736 for other charges including legal services, well drilling, command post rental, and accounting services. An additional \$1.9 M was expended by the Department of Transportation and Development (DOTD) through capital outlay to monitor Highway 70 near the sinkhole and study a bypass route for the highway in the event the sinkhole encroaches upon Highway 70.

The approximate amount incurred by each state agency responding to the incident is as follows: Department of Natural Resources (DNR) \$10.6 M; Department of Environmental Quality (DEQ) \$0.35 M; DOTD \$2.5 M; Public Safety Services (State Police and Management & Finance) \$0.13 M; Wildlife & Fisheries \$0.1 M; DHH Office of Public Health \$0.01 M; Homeland Security (GOHSEP) \$0.03 M. Although DNR has adequate budget authority to provide for the sinkhole expenditures, it lacks the cash required to pay for the expenses. DNR received a seed (loan) of \$8.0 M in FY 13, \$5.5 M in FY 14, and \$13.5 M in FY 15 from the Treasury to provide for its sinkhole expenditures. DOTD utilized budget authority in the Capital Outlay Bill (Act 23 of 2012) from the Secretary's Emergency Fund. GOSHEP received a \$152,383 (IAT) appropriation in the FY 13 supplemental bill (Act 54 of 2013). DEQ, Public Safety, Wildlife & Fisheries and Public Health utilized revenue in their respective existing budgets.

The state, through the Attorney General's Office, has requested compensation from Texas Brine, the company responsible for the sinkhole incident, for all expenditures it has incurred in response to the incident. If reimbursement is received, the state will be able to

### **Proposed Constitutional Amendment Creating a 21st Executive Branch Department (Act 874 of 2014)**

Patrice Thomas, Fiscal Analyst,  
[thomasp@legis.la.gov](mailto:thomasp@legis.la.gov)

The proposed constitutional amendment increases the number of authorized executive branch departments from the current 20 departments to 21 departments. If voters approve a 21st department, in accordance with existing law (R.S. 36:4), the Governor's Office of Elderly Affairs (GOEA) will become the Department of Elderly Affairs on July 1, 2015.

All departments are required to have a department head. Presently, the executive director position within the GOEA is vacant. The Legislative Fiscal Office anticipates the existing vacant executive director's position and associated funding may be utilized to fill the department head (secretary position) in the newly created Department of Elderly Affairs. Presently, the executive director of GOEA has an annual salary budgeted at \$91,402. If the salary of the secretary of the new department remains the same as the existing executive director position, the creation of a Department of Elderly Affairs does not increase state expenditures. However, only the governor determines the salary of the secretary position. Currently, the average salary of a department secretary is \$166,046. The salary of the lowest paid department secretary is \$123,614.

In existing law (R.S. 36:152), departments are authorized to have an undersecretary position as well as a deputy secretary position. If a newly created Department of Elderly Affairs fills these positions, additional state expenditures (*see next page*)

replace the revenue previously utilized to provide for the sinkhole expenditures. No payments have been received. On 7/2/2013 the Attorney General's Office filed suit against Texas Brine to recover the state's cost associated with its response to the sinkhole incident. The case is at the trial court level in pretrial status.

**Congress patches approaching Highway Trust Fund insolvency with short-term fix**

*Alan Boxberger, Fiscal Analyst, [aboxberger@legis.la.gov](mailto:aboxberger@legis.la.gov)*

The state of LA builds and maintains transportation infrastructure through a partnership of state and federal funding. Both funding sources rely on user-based revenues derived from gasoline and motor-fuel taxes, primarily a 16-cents per gallon state gasoline tax, an 18.3-cents per gallon federal gasoline tax and a 24.4-cents per gallon federal tax on diesel fuel and related excise taxes. Several factors have contributed to instability in transportation infrastructure funding at the national and state levels, including: the purchasing power of the non-indexed, flat gasoline tax has fallen to construction and operating inflation since the last increase more than twenty years ago, the consumer and government-driven demand for more fuel efficient vehicles has led to a decrease in gallons consumed per vehicle, and the number of annual aggregate vehicle miles driven has fallen by 2.3% since its peak in November of 2007.

The federal Highway Trust Fund HTF has been on the verge of insolvency for most of the past decade. Revenues generated by federal tax sources have not kept up with appropriation and allocation demands. Congress has pieced together a series of patchwork extensions to federal authorizations as well as deposits from the federal general fund in the sum of more than \$50 B over the past five years to keep the nation's transportation program afloat. The US DOT projected that the existing resources and ongoing deposits into the HTF would reach insolvency in August of 2014 without further congressional action. Late Congressional action at the end of July allocated an additional \$11 B through certain accounting maneuvers to return the HTF to short-term solvency through May of 2015, but receipts deposited into the HTF will still be lower than project allocations so the fund will again return to insolvency without a permanent solution that would likely involve increasing revenues to support the existing program or reducing the program to the level of actual revenues. In the highway account, annual revenue shortfalls generally exceed the annual allocation by approximately 30%.

On July 1, 2014, US Department of Transportation (DOT) Secretary Anthony Foxx issued a letter to the state departments of transportation detailing the DOT's plans in the event that a Congressional instrument did not arrive making the HTF solvent and this letter illuminates the potential impact to the states should Congress fail to act prior to depletion of the fund again in mid-2015. Beginning on August 1, 2015, DOT would have initiated a cash-management program that ceased making on-demand, same-day payments to reimburse states for federal-authorized capital expenditures. Incoming funds would be distributed to each state in proportion to its federal formula apportionment in the current fiscal year. States would be notified twice each month regarding its proportional allocation. From this allocation, states could request reimbursement on a daily basis until reaching its allocation total for the period. Any unused balance during any two-week period would carry forward to the subsequent period and the state could request its allocation for that period plus any excess remaining from any prior one.

The LA Department of Transportation and Development (DOTD) reports that due to recent bond sales and

will be required in FY 16. Based on analysis of the FY 14 budget of GOEA, if a Department of Elderly Affairs is created and one of the above positions is filled, state expenditures will increase by an estimated cost of \$141,112 (\$105,834 SGF and \$35,278 federal Title III Older Americans Act of 1965 for administrative costs) that includes a salary of \$90,000 for the undersecretary or deputy secretary position along with associated related benefits of \$51,112. Currently, the average salary of a department undersecretary is \$119,343. The salary of the lowest paid department undersecretary is \$93,600.

Act 871 states that the 21st department may not administer any programs or services that are historically administered by any other agency, office, or department. Therefore, the creation of a Department of Elderly Affairs will not impact services of programs provided by existing departments. Besides the salary increase for executive positions, the Legislative Fiscal Office anticipates revenue and expenditures to remain the same if GOEA becomes a department. In subsequent fiscal years, the creation of a Department of Elderly Affairs may increase operating expenses and equipment purchases by an indeterminable amount. Presently, GOEA has \$51.2 M budgeted for FY 15.

existing cash reserves, LA has sufficient cash on hand to weather any short-term disruptions to federal transportation reimbursements. DOTD was informed by DOT that under a cash-management program it likely would be able to draw approximately \$43 M per month from the HTF (a typical month's draw down is currently in the range of \$63 M). DOTD could likely proceed as planned with all capital expenditures for approximately six to seven months by utilizing funds currently held in escrow to make up the projected shortfalls while awaiting federal reimbursement or an ultimate solution to the insolvency of the HTF. DOTD's current capital outlay escrow account holds approximately \$220 M.

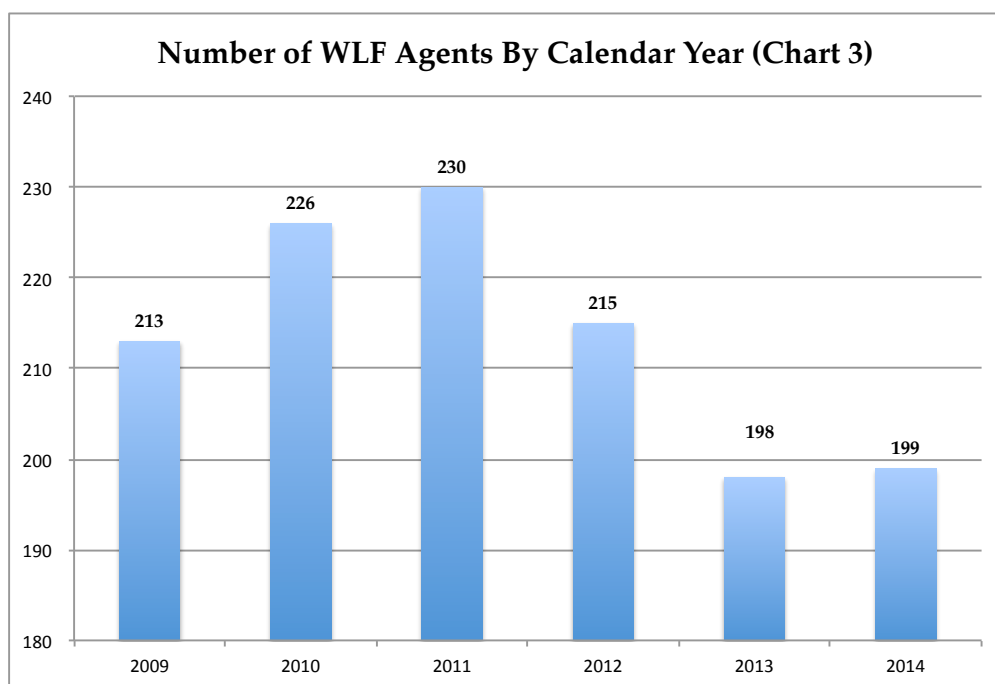
Should the federal HTF ever reach insolvency without a preemptive action by Congress, the state could realize more serious long-range impacts including the slow-down or postponement of certain projects in order to adjust the state's transportation plan to fit within its reduced federal allocation. DOTD has already shifted its focus over the past several years to preservation and safety projects in light of diminishing state resources, forgoing projects aimed at increasing capacity (capacity projects make up approximately 55% of the frequently discussed \$12 B backlog of transportation needs in the state). Potential new strains placed on the state's portion of federal highway funding would likely further erode preservation and safety efforts and potentially cause those sizable backlogs to swell.

### Wildlife & Fisheries Enforcement Agents

Drew Danna, Fiscal Analyst, [dannad@legis.la.gov](mailto:dannad@legis.la.gov)

Over the past three years, the number of enforcement agents in the Department of Wildlife & Fisheries (LDWF) has declined by approximately 13%. Traditionally, LDWF has enforcement agent training courses twice a year to combat the loss of enforcement agents. However, due to budget constraints, these positions have not been refilled because of the lack of cadet academies. An academy lasts a minimum of 24 weeks with a maximum capacity of 24 individuals per academy. In order to conduct a 24-man cadet academy for the full 24 weeks of training, LDWF estimates costs to total \$554,842, which is funded with the statutorily dedicated Conservation Fund. Cadet salaries represent the greatest expense at \$394,445. Operating expenditures, which cover travel, training uniforms, office supplies, outside instructors, automotive supplies, and maintenance, total \$112,156. The majority of training is conducted and housed in the Waddill Outdoor Education Center, which is already used by LDWF in day-to-day operations. The Waddill Wildlife Refuge and Outdoor Education Center is a 237-acre learning facility designed for all ages to learn more about nature and how to safely perform outdoor activities. Using this facility eliminates the need for dormitory costs, classroom costs, and most facility rentals as these are already provided by the facility. Other expenses for the course total \$48,241 and include ammunition, tasers and other miscellaneous educational materials. Upon graduation, cadets are issued new uniforms, boots, life jackets, other necessary weather-resistant gear, and other supplies necessary for the job which totals \$3,500 per cadet. These costs are not associated with training and are only realized for cadets who graduate from the academy. This does not include vehicles, boats, and firearms, which are issued to cadets out of inventory and are not new purchases for LDWF.

It is important to note that, on average LDWF loses approximately 20% of the cadets over the course of the academy. The current cadet class, Academy 28, began on August 4th, 2014 with 21 new recruits but has already dropped to 16 at the time of this writing. Only 13 cadets completed the full course for the most recent academy





(Academy 27), which ended on June 10, 2014. More concerning than the low graduation number, Academy 27 was the first completed cadet course since February 16, 2011. In those three years, 45 agents have left LDWF with only the 13 new agents from Academy 27 to fill those losses (See Chart 3 on the previous page). Even if LDWF retains all 16 recruits currently in training, the agency will still have 21 remaining vacancies to fill as there are 235 TO positions allocated for enforcement agents. Officials within the department have stated the need for more enforcement agents, but have had a difficult time recruiting new cadets and are concerned with their ability to retain seasoned agents against the Office of State Police. According to LDWF officials, both agencies draw from the same pool of candidates, but with the salary increases awarded to the Office of State Police, LDWF cannot offer equal financial incentives to prospective cadets and experienced agents. For comparison, the starting salary for a LDWF enforcement agent is \$35,609, while the current starting salary of a state trooper is \$36,408.

In addition, overtime (OT) opportunities are limited for Wildlife enforcement agents due to fewer programs enforcement agents can utilize compared to State Police. For context, LDWF agents are limited to 200 hours of overtime per year due with largest provider of OT hours being the litter abatement program. Last year, LDWF paid out \$1.6 M in OT, averaging approximately \$7,800 per agent, which excludes cadets who are not allowed to receive overtime in any capacity, while State Police paid out \$15 M in OT, averaging approximately \$15,800 per State Trooper. New cadets are limited to earning only \$1,380 annually in overall OT.

## EDUCATION

### TOPS Funding Projections & LA Grad Act Impacts

Charley Rome, Fiscal Analyst, [romec@legis.la.gov](mailto:romec@legis.la.gov)

TOPS (Taylor Opportunity Program for Students) is a program of state scholarships for Louisiana residents who attend one of the following: a Louisiana Public College or University, a school that is part of the Louisiana Community and Technical College System, a Louisiana approved Proprietary and Cosmetology School or an institution that is a member of the Louisiana Association of Independent Colleges and Universities. TOPS award amounts (excluding stipends) are based on tuition charged at public institutions in Louisiana and can be used for any qualified educational expenses (cost of attendance) including the following: tuition, fees, books, supplies, certain required equipment, reasonable charges for room and

### TOPS Award Projections Based on Fall 2013 Term Expenditures (Table 1)

*Includes Grad Act Tuition increases of 10% per Year 2016-17 thereafter*

TOPS Component	2014-15 Estimated *		2015-16 Projected		2016-17 Projected		2017-18 Projected		2018-19 Projected	
	#	\$	#	\$	#	\$	#	\$	#	\$
Honors	9,988	\$62,504,904	10,281	69,951,924	10,595	78,445,380	10,730	86,526,720	10,877	95,608,830
Performance	11,979	\$66,459,492	12,245	74,241,435	12,417	82,312,293	12,574	91,186,648	12,751	101,204,687
Opportunity	23,762	\$115,383,480	24,255	129,567,459	24,786	145,640,835	25,194	162,851,464	25,550	181,655,620
Tech	1,654	\$4,219,354	1,792	5,028,352	1,831	5,652,297	1,855	6,299,580	1,884	7,038,624
SUB-TOTAL	47,383	\$248,567,230	48,573	278,789,170	49,629	312,050,805	50,353	346,864,412	51,062	385,507,761
Tech Early Start	4,939	\$1,428,200	4,939	1,428,200	4,939	1,428,200	4,939	1,428,200	4,939	1,428,200
TOTAL	52,322	\$249,995,430	53,512	280,217,370	54,568	313,479,005	55,292	348,292,612	56,001	386,935,961
SGF Increase over FY 15	N/A		\$30,221,940		\$63,483,575		\$98,297,182		\$136,940,531	
SGF Increase over FY 15***	N/A		\$52,221,940		\$85,483,575		\$120,297,182		\$158,940,531	
Avg TOPS Award **	\$5,246		\$5,740		\$6,288		\$6,889		\$7,550	

\*Amount for 2014-15 is minimum estimate based on actual billings through 4/1/2014 representing the latest available projection on 11/1/2014.

\*\*Excludes Tech Early Start

\*\*\*Includes replacement of \$22 M in one-time funding from tobacco restructuring/refinancing that must be replaced in FY 16.

board, and special needs services. For FY 15, TOPS is funded at \$250.0 M; \$169.9 M in SGF and \$80.1 M from the TOPS Fund. The \$80.1 M from the TOPS Fund includes \$22 M in one-time funding from tobacco restructuring / refinancing that must be replaced in FY 16.

Funding for the TOPS program has increased significantly since passage of the LA Grad Act in 2010 (Act 741 of the 2010 Regular Legislative Session) because tuition increases authorized by the legislation have correspondingly raised TOPS award amounts. Total TOPS awards were \$131 M in the last year prior to passage of the LA Grad Act in FY 10. The total dollar value of awards has risen by approximately 91% since 2010 to an estimated \$250 M in FY 15 primarily due to tuition increases authorized by the LA Grad Act. By contrast, the number of awards (excluding Tech Early Start) has only risen by approximately 10% from FY 10 to FY 15.

Table 1 on the previous page from the Louisiana Office of Student Financial Assistance (LOSFA) shows estimated and projected TOPS awards for FY 15 through FY 19. LOSFA projects the total number of awards will increase by approximately 7% from FY 15 to FY 19. However, LOSFA forecasts that the total dollar value of awards will increase by approximately \$137 M (55%) from FY 15 to FY 19. This increase is approximately \$159 M (64%) if the increase includes replacement of the \$22 M in one-time funding from tobacco restructuring / refinancing with SGF. This dramatic increase is primarily due to LOSFA's assumption that tuition will increase by 10% per year due to authority granted by the LA Grad Act.

However, public colleges and universities have several limitations relative to their on-going ability to raise tuition per authority granted by the LA Grad Act. Some institutions are close to the Southern Regional Education Board (SREB) tuition cap included in the LA Grad Act and may not be able to raise the full 10% amount authorized each year. Other institutions have seen enrollment declines as tuition goes up, decreasing overall revenues from students. Other institutions may choose not to impose the full 10% increase in order to maintain access for low-income students. Actual collections of tuition and mandatory fees in FY 15 may also be reduced by hardship waivers, fee exemptions or other forms of student aid. Other institutions occasionally fail to meet LA Grad Act performance objectives required to raise tuition. For instance, Southern University A&M, Southern University at Shreveport, and the Southern University Law Center did not pass their Grad Act Student Success objectives in year 4 (FY 14) and lost authority to increase tuition in FY 15.

Louisiana public colleges and universities signed six-year performance agreements in August 2010 per the LA Grad Act. These six-year agreements expire at the end of FY 16. For reasons stated above, institutions may be limited in their ability to raise tuition in future years and may have less incentive to sign subsequent six-year performance agreements under the LA Grad Act beginning in FY 17. Furthermore, the LA Grad Act has higher student success performance objectives that may be unobtainable for many institutions for subsequent six-year performance agreements. Specifically, the Grad Act's second six-year performance agreements require the following graduation rates by Southern Regional Education Board (SREB) category: 1) 75% for SREB "Four-Year 1" institutions. 2) 60% for SREB "Four-Year 2" institutions. 3) 50% for SREB institutions classified as a "Four-Year 3", "Four-Year 4", or "Four-Year 5". 4) A graduation rate that is equal to the SREB average for any community college and technical college campus. Furthermore, the Division of Administration has only provided limited approval for institutions to utilize base level autonomies authorized by the LA Grad Act further decreasing the usefulness of signing subsequent performance agreements.

## REVENUE

### Revenue Estimating Conference and Act 419, Where Are We Now

Greg Albrecht, Chief Economist, [albrechtg@legis.la.gov](mailto:albrechtg@legis.la.gov)

Act 419 of 2013 expanded the state revenue sources that are included in the official revenue forecast, and required official recognition of revenue in order for it to be appropriated. In effect, additional forecasts and recognitions have to be made for a substantial list of statutory dedications and agency self-generated revenues. Forecasts are not required for federal funds, higher education self-generated revenue, and interagency transfers. These additional revenues, as incorporated into the enacted FY 14 budget, were not subject to the Act's requirements in FY 14, while increases in those enacted appropriations were incorporated into the official forecast during the interim. All affected revenues were incorporated into the



official forecasts for the FY 15 budget. Forecasts of these additional revenue sources have not been incorporated into the long-range official forecast horizon of FY 16 – FY 18.

While implementation of Act 419 was not applied to statutory dedications and agency self-generated revenue enacted in the FY 14 operating budget, the Revenue Estimating Conference (REC) did meet on three separate occasions in the first half of FY 14 to incorporate additional amounts to the Act 419 enacted revenue sources. Total adjustments adopted at these meetings amounted to \$169.2 M. These REC meetings were held prior to the Joint Legislative Committee on the Budget (JLCB) meetings that then approved the adjustments to agency budgets incorporating the new estimates of these revenues via the typical budget adjustment (BA-7) process after normal analysis and recommendation by both the Division of Administration (DOA) and the Legislative Fiscal Office (LFO).

The 1/15/2014 REC meeting was the first forecast to incorporate the full list of statutory dedications by specific fund and agency self-generated revenue required by Act 419. These new forecasts were presented on a separate submittal to the conference, and detailed some 372 individual statutory dedications totaling \$769 M for FY 14 and \$3.3 B for FY 15 (inclusive of some \$1.9 B of dedications traditionally considered by the REC), as well as 35 agency self-generated revenue estimates aggregated by department and totaling \$406 M for FY 14 and \$2.3 B for FY 15. Similar expanded forecasts were presented at the REC meetings held on May 19, June 2, and June 19. In addition, about a dozen ad hoc components of the Overcollections fund were considered, along with five new funds being created during the 2014 session and two ad hoc resource amounts being deposited to an existing fund. At the January and May meetings traditional base tax receipt forecast revisions were made, including traditional dedication amounts in addition to adoption of the additional Act 419 revenues.

Incorporation of Act 419 revenues into the official forecast has presented some interesting complications and issues to the revenue forecasting process. Given the large number of additional items involved, both the Legislative Fiscal Office (LFO) and the Division of Administration (DOA) have to utilize efficient methods to prepare their respective estimates. The LFO selected a simple time-trend approach that could be applied to all of the Act 419 dedications across the board. The DOA presents estimates routinely developed by budget analysts for purposes of constructing the specific expenditure plan for the current and ensuing fiscal

year. While not a careful evaluation of the idiosyncrasies of each revenue stream, the LFO forecast of Act 419 revenues is consistent with the traditional tax base revenues by being based strictly on the flow of revenue associated with each dedication, and does not consider the budget spending plan. The estimates presented by the DOA, while presumably cognizant of the actual flow of revenue, are developed from the perspective of the spending plan, and are presented by the DOA budget director. Consistent with the spending plan focus of its estimates, the DOA prepares estimates only for the current fiscal year and the ensuing fiscal year. Consistent with the traditional revenue forecast horizon, the LFO prepares five-year forecasts of each of these revenue sources. Only two years of estimates by both offices have been presented to the REC; those for the current fiscal year and the ensuing fiscal year.

On at least one occasion the REC has adopted the higher of the two dedications estimates presented to it to avoid having to have repeated meetings simply to adopt higher estimates for dedications whose spending is ultimately limited by their actual deposits. In addition, to preclude the necessity for an REC meeting to adopt routine carry-forward balances, starting with the 1/15/2014 REC meeting, the forecast adoptions began to include a statement that any balances recognized in the current forecast and carried forward to the subsequent fiscal year are additional revenue available for that subsequent fiscal year. Increases in budgeted dedications already have to be reviewed and approved by the JLCB, through the longstanding BA-7 process that involves analysis and recommendations by both the DOA and the LFO.

Act 419 also requires the official forecasts to include agency self-generated revenues (except those associated with higher education institutions). Neither the DOA nor the LFO have developed a way to forecast and incorporate these revenues into the REC process other than to present them as department level aggregates developed by agency and DOA budget analysts, and little discussion of them has occurred in the REC. Expenditure of appropriations from these revenues is also ultimately constrained by their receipts, and upward adjustments to these revenues are subject to the typical JLCB BA-7 process just as the dedicated revenues are. Thus, maintenance of statutory dedications and agency self-generated revenues in the official forecast is largely a ratification of the spending plan developed through the legislative process.

Of particular importance is incorporation of various ad hoc resources into the official forecasts. These resources have become increasingly significant in financing the budgeted spending plan and, until Act 419, have not been routinely considered by the REC. These resources are now explicitly considered by the REC, and were a primary motivation behind Act 419. These resources have included a wide variety of monies such as transfers of known and projected balances of statutorily dedicated funds, sales of state assets, reserves of state-sponsored entities, legal settlements, and other sources of monies. The nature of such resources is such that they cannot be forecasted in any statistical sense or estimated without considerable information about them. Dollar amounts of these resources have been proposed by the DOA during the budget process and accepted by the REC. Except when known dollar amounts have been received by the state treasury, the LFO has presented no forecasts or projections of these resources. At meetings of the REC on 1/15/2014 and 5/19/2014 ad hoc resources were presented as aggregate figures within the Overcollections Fund. The REC adopted aggregate amounts as presented. At the 6/2/2014 and 6/19/2014 REC meetings, breakouts of these ad hoc resources were presented. The REC adopted these amounts as presented.

The REC has always been charged with designating revenues as recurring or nonrecurring. A nonrecurring designation restricts the use of such monies to directly financing constitutionally enumerated forms of debt or capital outlay. The REC has historically made nonrecurring designations sparingly and primarily with regard to certain resources such as revenue surpluses, special settlements, and extraordinary events. Act 419 reiterated that charge, and the REC has made such designations pursuant to the Act at each meeting since the 1/15/2014 meeting. As of the last REC meeting, on 6/19/2014, the REC designated as recurring an enumerated list of ad hoc resources included in the Overcollections Fund for the FY 14 forecast of \$272.53 M, but designated as nonrecurring a \$25 M item that had been moved from the FY 15 list to the FY 14 list. For the FY 15 forecast, the enumerated list of ad hoc resources was reduced to \$42 M as a result of the shift of the single item to FY 14, and that reduced amount was designated as nonrecurring.

At the 6/2/2014 meeting the REC also adopted estimates of resources associated with legislation that was moving through the legislative process but had not yet been enacted. This is the first time the REC has incorporated resources not associated with current law. This was the last day of the legislative

session, and by the end of the day one of these measures had been substantially amended and ultimately enacted with a significantly larger amount of resources associated with it. This larger amount was then adopted as recurring revenue at the 6/19/2014 REC meeting held to make this and other corrections to the forecasts.

Finally, a consequence of Act 419 has been to substantially increase the state debt limit. Traditionally, the debt limit has been calculated by the State Bond Commission (SBC) as a function of the REC total forecast. Act 419 added substantial amounts of statutory dedications and agency self-generated revenue to the total REC forecast. According to the Net State Tax Supported Debt Report prepared by the State Bond Commission dated 6/19/2014, and pursuant to AG Opinion 14-0031 issued 5/5/2014, Act 419 added \$3.73 B of revenue to the debt limit calculation base resulting in \$223.8 M of additional debt service capacity. While allowable by calculation, the additional dedicated and self-generated revenue included in the official forecasts pursuant to Act 419 is not generally available to support the additional debt service allowed. This appears to have been an unintended consequence of the Act. On 7/17/2014, the SBC discussed a resolution stating its intent to calculate the state debt limit using the pre-Act 419 basis. A final resolution is pending, though the outcome is intended to disregard the impact of Act 419 on the debt limit calculation. The SBC also indicated a desire to introduce legislation during the 2015 Regular Session of the Legislature to maintain the original debt limit calculation basis.

Act 419 has resulted in additional REC meetings and considerable additional considerations at those meetings. The resulting adjustments to the official forecasts during the interim period simply augment the existing JLCB BA-7 process, and adoptions of Act 419 items are essentially ratifications of the spending plan being developed during the legislative process. Ad hoc resources increasingly utilized to construct budgets have been brought into the REC process and have been adopted largely as presented by the DOA. Material amounts of these ad hoc resources have been designated as nonrecurring, with these designations primarily associated with the particular fiscal year for which they are being adopted. A substantial increase in the state debt limit seems to be an unintended consequence of the Act that will likely be remedied. With the first year of operation behind it, the REC is still working out how to routinely implement Act 419.